

AMENDED IN ASSEMBLY APRIL 9, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 718

Introduced by Assembly Member Pacheco

February 19, 2003

An act to amend Sections 1003, 1301, 4000, 9283, 9285, 13113, 17100, and 17304 of the Elections Code, and to amend Sections 6253.5 and 36512 of the Government Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 718, as amended, Pacheco. Elections: municipal elections.

(1) Existing law requires a special municipal election to fill a city council vacancy or certain vacancies in the office of mayor to be held on an established election date not less than 114 days from the call of the special election.

This bill would permit those elections to be held on dates other than an established election date, with certain requirements, and would also permit any vacancy of an elected city office to be filled at that election.

(2) Existing law requires, with certain exceptions, a general municipal election to be held on the ~~second~~ 2nd Tuesday in April of even-numbered years or the first Tuesday after the first Monday in March of odd-numbered years.

This bill, instead, would require a general municipal election to be held on any established election date or on the ~~second~~ 2nd Tuesday of April in each odd-numbered year. This bill would require a general municipal election held on the same date as a statewide election to be consolidated with that statewide election, thereby imposing a state-mandated local program.

(3) Existing law provides that several types of elections may be held wholly by mail, with certain conditions.

This bill would, in addition, permit a municipal election that is held to submit a measure or measures to a vote of the voters of a city to be held wholly by mail.

(4) Existing law requires a written argument relating to a city ballot measure to be signed by the person or persons submitting the argument. Existing law also allows a person or persons who filed an argument relating to a city ballot measure to file a rebuttal argument to arguments that oppose their position.

This bill would clarify that arguments must be signed by the author or authors of the argument. *If an argument relating to a measure is filed and an argument has been filed in opposition to that argument, it would permit the elections official to send a copy of that argument to the author or a majority of the authors of the argument in favor of the measure, and would permit the author or a majority of the authors to file a rebuttal argument.* It would permit rebuttal arguments to be signed by an author of the original argument, a combination of the authors of the original argument, or by all the authors of the original argument. It would also require rebuttal arguments to be signed only by the author or authors of the original argument and would require that rebuttal arguments contain no more than 5 signatures, thereby creating a state-mandated local program.

(5) Existing law provides that the order of candidates' names on the ballot of a special district, school district, charter city, or other local government body election, occurring on other than one of the 4 major election dates is determined by a special randomized alphabet drawing conducted by the Secretary of State, with certain requirements.

This bill would require the randomized alphabet drawn for purposes of the first election held by a charter city that holds 2 elections in the same ~~year~~ *12-month period* which occur on other than one of the 4 major election dates, to be used for both of those elections *if the 2nd election within that 12-month period does not have a close of filing deadline*, thereby creating a state-mandated local program.

(6) Existing law requires the preservation of nomination documents and signatures in lieu of filing fee petitions.

This bill would provide that those items are not public records and not open to public inspection *until the close of the nomination period*.

(7) Existing law requires the preservation of certain items related to a state or local election, and provides that voters may inspect these items



at all times following the commencement of the official canvass of the votes of that election.

This bill would provide that items which contain signatures of voters are not open to inspection.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1003 of the Elections Code is amended
- 2 to read:
- 3 1003. This chapter shall not apply to the following:
- 4 (a) Any special election called by the Governor.
- 5 (b) Elections held in chartered cities or chartered counties in
- 6 which the charter provisions are inconsistent with this chapter.
- 7 (c) School governing board elections consolidated pursuant to
- 8 Section 1302.2 or initiated by petition pursuant to Section 5091 of
- 9 the Education Code.
- 10 (d) Elections of any kind required or permitted to be held by a
- 11 school district located in a chartered city or county when the
- 12 election is consolidated with a regular city or county election held
- 13 in a jurisdiction that includes 95 percent or more of the school
- 14 district's population.
- 15 (e) County, municipal, district, and school district initiative,
- 16 referendum, or recall elections.
- 17 (f) Any election conducted solely by mailed ballot pursuant to
- 18 Division 4 (commencing with Section 4000).
- 19 (g) Elections held pursuant to Article 1 (commencing with
- 20 Section 15100) of Chapter 1, or pursuant to Article 4 (commencing

1 with Section 15340) of Chapter 2 of, Part 10 of the Education
2 Code.

3 (h) A special municipal election held pursuant to Section
4 36512 of the Government Code to fill a vacancy in an elected city
5 office.

6 SEC. 2. Section 1301 of the Elections Code is amended to
7 read:

8 1301. (a) Except as required by Section 57379 of the
9 Government Code, and except as provided in subdivision (b), a
10 general municipal election shall be held on an established election
11 date pursuant to Section 1000 or the second Tuesday of April in
12 each odd-numbered year. If a general municipal election is held on
13 the same date as a statewide election, that general municipal
14 election shall be consolidated with the statewide election pursuant
15 to Part 3 (commencing with Section 10400) of Division 10.

16 (b) (1) Notwithstanding subdivision (a), a city council may
17 enact an ordinance, pursuant to Division 10 (commencing with
18 Section 10000), requiring its general municipal election to be held
19 on the same day as the statewide direct primary election, the day
20 of the statewide general election, or on the day of school district
21 elections as set forth in Section 1302. Any ordinance adopted
22 pursuant to this subdivision shall become operative upon approval
23 by the board of supervisors.

24 (2) In the event of consolidation, the general municipal election
25 shall be conducted in accordance with all applicable procedural
26 requirements of this code pertaining to that primary, general, or
27 school district election, and shall thereafter occur in consolidation
28 with that election.

29 (c) If a city adopts an ordinance described in subdivision (b),
30 the municipal election following the adoption of the ordinance and
31 each municipal election thereafter shall be conducted on the date
32 specified by the city council, in accordance with subdivision (b),
33 unless the ordinance in question is later repealed by the city
34 council.

35 (d) If the date of a general municipal election is changed
36 pursuant to subdivision (b), at least one election shall be held
37 before the ordinance, as approved by the board of supervisors, may
38 be subsequently repealed or amended.

39 SEC. 3. Section 4000 of the Elections Code is amended to
40 read:



1 4000. A local, special, or consolidated election may be
2 conducted wholly by mail provided that all of the following
3 conditions apply:

4 (a) The governing body of the local agency authorizes the use
5 of mailed ballots for the election.

6 (b) The election does not occur on the same date as a statewide
7 direct primary election or statewide general election.

8 (c) The election is one of the following:

9 (1) An election in which no more than 1,000 registered voters
10 are eligible to participate.

11 (2) A maximum property tax rate election as provided for in
12 Section 2287 of the Revenue and Taxation Code.

13 (3) An election on a measure or measures restricted to (A) the
14 imposition of special taxes, or (B) expenditure limitation
15 overrides, or (C) both (A) and (B), in a city, county, or special
16 district with 5,000 or less registered voters calculated as of the time
17 of the last report of registration by the county elections official to
18 the Secretary of State.

19 (4) An election on the issuance of a general obligation water
20 bond in accordance with Section 12944.5 of the Water Code.

21 (5) An election of the Directors of the Monterey Peninsula
22 Water Management District as authorized in Section 122 of
23 Chapter 527 of the Statutes of 1977, known as the Monterey
24 Peninsula Water Management District Law.

25 (6) An election of the Aliso Water Management Agency, or its
26 affected member agencies, pursuant to Sections 13416 and 13417
27 of the Water Code.

28 (7) An election of the San Jacinto Mountain Area Water Study
29 Agency pursuant to Sections 13416 and 13417 of the Water Code.

30 (8) An election of the San Lorenzo Valley Water District
31 pursuant to Sections 13416 and 13417 of the Water Code.

32 (9) An election or assessment ballot proceeding required or
33 authorized by Article XIII C or XIII D of the California
34 Constitution. However, when an assessment ballot proceeding is
35 conducted by mail pursuant to this section, the following rules
36 apply:

37 (A) The proceeding shall be denominated an “assessment
38 ballot proceeding” rather than an election.

39 (B) Ballots shall be denominated “assessment ballots.”

(10) A municipal election that is held to submit a measure or measures to a vote of the voters of a city.

SEC. 4. Section 9283 of the Elections Code is amended to read:

9283. A ballot argument ~~may~~ *shall* not be accepted under this article unless accompanied by the printed name and signature or printed names and signatures of the author or authors submitting it, or, if submitted on behalf of an organization, the name of the organization and the printed name and signature of at least one of its principal officers who is the author *or authors* of the argument.

No more than five signatures may appear with any argument submitted under this article. If an argument is signed by more than five persons, the signatures of the first five shall be printed.

SEC. 5. Section 9285 of the Elections Code is amended to read:

9285. (a) (1) If a person submits an argument against a city measure, and an argument has been filed in favor of the city measure, the elections official shall immediately send copies of that argument to the author or *the majority of the* authors of the argument in favor of the city measure. The author or *the majority of the* authors of the argument in favor of the city measure may prepare and submit a rebuttal argument not exceeding 250 words. The elections official shall send copies of the argument in favor of the measure to the author or *the majority of the* authors of the argument against the city measure, who may prepare and submit a rebuttal to the argument in favor of the city measure not exceeding 250 words.

(2) Rebuttal arguments shall be signed by an author of the original argument, a combination of the authors of the original argument, or by all the authors of the original argument. Rebuttal arguments may not be signed by a person who did not sign the original argument. Rebuttal arguments may not contain more than five signatures.

(3) Rebuttal arguments shall be filed with the elections official not more than 10 days after the final date for filing direct arguments. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument it seeks to rebut.

(b) Subdivision (a) applies only if, not later than the day on which the legislative body calls an election, the legislative body,

1 adopts its provisions by majority vote, in which case subdivision
2 (a) applies at the next ensuing municipal election and at each
3 municipal election thereafter, unless later repealed by the
4 legislative body in accordance with the procedures of this
5 subdivision.

6 SEC. 6. Section 13113 of the Elections Code is amended to
7 read:

8 13113. (a) In the case of an election of candidates in a special
9 district, school district, charter city (whose charter does not
10 provide to the contrary), or other local government body,
11 occurring on other than one of the four major election dates
12 specified in subdivision (b) of Section 13112, the official
13 responsible for conducting the election shall, at the same time that
14 the election is called, notify the Secretary of State by registered
15 mail of the date of the election, the date of the close of filing, and
16 the last possible date for filing in the event there is an extension of
17 filing due to an incumbent failing to file. The Secretary of State
18 shall conduct a randomized alphabet drawing on the first weekday
19 following the last possible day of filing for ~~such~~ an election
20 according to subdivision (a) of Section 13112.

21 (b) If two or more drawings for local government elections
22 would occur on the same date, the Secretary of State may use a
23 single randomized alphabet drawing for all of these elections. The
24 Secretary of State shall communicate the results of the drawing by
25 registered mail to each respective official responsible for
26 conducting the election who shall use it to determine the order on
27 the ballot of all candidates' names.

28 (c) All drawings held pursuant to this section shall be open to
29 the public.

30 (d) If a charter city holds two elections ~~in the same year~~ *within*
31 *a 12-month period* that meet the requirements of subdivision (a),
32 *and the second election within that 12-month period does not have*
33 *a close of filing deadline*, then the randomized alphabet drawn
34 pursuant to Section 13312 for the first election shall be used to
35 determine the order on the ballot of all candidates' names for both
36 elections.

37 SEC. 7. Section 17100 of the Elections Code is amended to
38 read:

39 17100. (a) All nomination documents and signatures in lieu
40 of filing fee petitions filed in accordance with this code shall be

1 held by the officer with whom they are filed during the term of
2 office for which they are filed and for four years after the
3 expiration of the term.

4 (b) Thereafter, the documents and petitions shall be destroyed
5 as soon as practicable unless they either are in evidence in some
6 action or proceeding then pending or unless the elections official
7 has received a written request from the Attorney General, the
8 Secretary of State, the Fair Political Practices Commission, a
9 district attorney, a grand jury, or the governing body of a county,
10 city and county, or district, including a school district, that the
11 documents and petitions be preserved for use in a pending or
12 ongoing investigation into election irregularities, the subject of
13 which relates to the placement of a candidate's name on the ballot,
14 or in a pending or ongoing investigation into a violation of the
15 Political Reform Act of 1974 (Title 9 (commencing with Section
16 81000) of the Government Code).

17 (c) Public access to the items described in subdivision (a) shall
18 be restricted in accordance with subdivision (a) of Section 6253.5
19 of the Government Code *until the close of the nomination period*.

20 SEC. 8. Section 17304 of the Elections Code is amended to
21 read:

22 17304. (a) The following provisions shall apply to all state or
23 local elections not provided for in subdivision (a) of Section
24 17303. An election is not deemed a state or local election if votes
25 for candidates for federal office may be cast on the same ballot as
26 votes for candidates for state or local office.

27 (b) The elections official shall preserve the package or
28 packages containing the following items for a period of six
29 months:

- 30 (1) Two tally sheets.
31 (2) The copy of the index used as the voting record.
32 (3) The challenge lists.
33 (4) The assisted voters list.

34 (c) All voters may inspect the contents of the package or
35 packages at all times following commencement of the official
36 canvass of the votes, except that items which contain signatures of
37 voters shall be restricted in accordance with subdivision (a) of
38 Section 6253.5 of the Government Code.

39 (d) If a contest is not commenced within the six-month period,
40 or if a criminal prosecution involving fraudulent use, marking or



1 falsification of ballots, or forgery of absent voters' signatures is
2 not commenced within the six-month period, either of which may
3 involve the vote of the precinct from which voted ballots were
4 received, the election official may have the packages destroyed or
5 recycled.

6 SEC. 9. Section 6253.5 of the Government Code is amended
7 to read:

8 6253.5. (a) Notwithstanding Sections 6252 and 6253,
9 statewide, county, city, and district initiative, referendum, recall
10 petitions, and nomination documents and signatures in lieu of
11 filing fee petitions, petitions circulated pursuant to Section 5091
12 of the Education Code, petitions for the reorganization of school
13 districts submitted pursuant to Article 1 (commencing with
14 Section 35700) of Chapter 4 of Part 21 of the Education Code,
15 petitions for the reorganization of community college districts
16 submitted pursuant to Part 46 (commencing with Section 74000)
17 of the Education Code and all memoranda prepared by the county
18 elections officials in the examination of the petitions indicating
19 which registered voters have signed particular petitions are not
20 public records and are not open to inspection except by the public
21 officer or public employees who have the duty of receiving,
22 examining or preserving the petitions or who are responsible for
23 the preparation of that memoranda and, if the petition is found to
24 be insufficient, by the proponents of the petition and the
25 representatives of the proponents as may be designated by the
26 proponents in writing in order to determine which signatures were
27 disqualified and the reasons therefor. However, the Attorney
28 General, the Secretary of State, the Fair Political Practices
29 Commission, a district attorney, a school district or a community
30 college district attorney, and a city attorney may examine the
31 material upon approval of the appropriate superior court.

32 If the proponents of a petition are permitted to examine the
33 petition and memoranda, the examination shall commence not
34 later than 21 days after certification of insufficiency.

35 (b) As used in this section, "petition" means any petition to
36 which a registered voter has affixed his or her signature.

37 (c) As used in this section "proponents of the petition" means
38 the following:

39 (1) For statewide initiative and referendum measures, the
40 person or persons who submit a draft of a petition proposing the

1 measure to the Attorney General with a request that he or she
2 prepare a title and summary of the chief purpose and points of the
3 proposed measure.

4 (2) For other initiative and referenda on measures, the person
5 or persons who publish a notice of intention to circulate petitions,
6 or, where publication is not required, who file petitions with the
7 elections official.

8 (3) For recall measures, the person or persons defined in
9 Section 343 of the Elections Code.

10 (4) For petitions circulated pursuant to Section 5091 of the
11 Education Code, the person or persons having charge of the
12 petition who submit the petition to the county superintendent of
13 schools.

14 (5) For petitions circulated pursuant to Article 1 (commencing
15 with Section 35700) of Chapter 4 of Part 21 of the Education Code,
16 the person or persons designated as chief petitioners under Section
17 35701 of the Education Code.

18 (6) For petitions circulated pursuant to Part 46 (commencing
19 with Section 74000) of the Education Code, the person or persons
20 designated as chief petitioners under Sections 74102, 74133, and
21 74152 of the Education Code.

22 SEC. 10. Section 36512 of the Government Code is amended
23 to read:

24 36512. (a) If a vacancy occurs in an appointive office
25 provided for in this chapter, the council shall fill the vacancy by
26 appointment. A person appointed to fill a vacancy holds office for
27 the unexpired term of the former incumbent.

28 (b) If a vacancy occurs in an elective office provided for in this
29 chapter, the council shall, within 30 days from the commencement
30 of the vacancy, either fill the vacancy by appointment or call a
31 special election to fill the vacancy. The special election shall be
32 held on the date of the next regular municipal election, the next
33 regularly established election date, or on a date established for a
34 special election to be held for the purpose of filling a vacancy in
35 an elected city office not less than 114 days from the call of the
36 special election. A person appointed or elected to fill a vacancy
37 holds office for the unexpired term of the former incumbent.

38 (c) Notwithstanding subdivision (b) and Section 34902, a city
39 may enact an ordinance which:



(1) Requires that a special election be called immediately to fill every city council vacancy, the office of mayor designated pursuant to Section 34902, and any other vacancy in an elected city office. The ordinance shall provide that the special election shall be held on the date of the next regular municipal election, the next regularly established election date, or on a date established for a special election to be held for the purpose of filling a vacancy in an elected city office not less than 114 days from the call of the special election.

(2) Requires that a special election be held to fill a city council vacancy and the office of mayor designated pursuant to Section 34902 when petitions bearing a specified number of verified signatures are filed. The ordinance shall provide that the special election shall be held on the date of the next regular municipal election, the next regularly established election date, or on a date established for a special election to be held for the purpose of filling a vacancy in an elected city office not less than 114 days from the filing of the petition. A governing body which has enacted ~~such~~ an ordinance may also call a special election pursuant to subdivision (b) without waiting for the filing of a petition.

(3) Provides that a person appointed to fill a vacancy on the city council and the office of mayor designated pursuant to Section 34902 holds office only until the date of a special election which shall immediately be called to fill the remainder of the term. The special election may be held on the date of the next regular municipal election, the date of the next regular election as established in Section 1000, or on a date established for a special election to be held for the purpose of filling a vacancy in an elected city office not less than 114 days from the call of the special election.

(d) (1) Notwithstanding subdivision (b) and Section 34902, an appointment shall not be made to fill a vacancy on a city council if the appointment would result in a majority of the members serving on the council having been appointed. The vacancy shall be filled in the manner provided by this subdivision.

(2) The city council may call an election to fill the vacancy, to be held on the date of the next regular municipal election, the next regularly established election date, or on a date established for a special election to be held for the purpose of filling a vacancy in an elected city office not less than 114 days after the call.

1 (3) If the city council does not call an election pursuant to
2 paragraph (2), the vacancy shall be filled at the next regularly
3 established election date.

4 SEC. 11. Notwithstanding Section 17610 of the Government
5 Code, if the Commission on State Mandates determines that this
6 act contains costs mandated by the state, reimbursement to local
7 agencies and school districts for those costs shall be made pursuant
8 to Part 7 (commencing with Section 17500) of Division 4 of Title
9 2 of the Government Code. If the statewide cost of the claim for
10 reimbursement does not exceed one million dollars (\$1,000,000),
11 reimbursement shall be made from the State Mandates Claims
12 Fund.

